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July 11, 2023

VIA ECF

The Honorable Kenneth M. Karas
United States District Judge
United States Courthouse
300 Quarropas Street
White Plains, New York 10601-4150

Re: Lane, et al., v. Nigrelli, et al., 22 Civ. 10989 (KMK)

Dear Judge Karas:

This Office represents Steven Nigrelli, sued in his official capacity as Acting Superintendent of the New York State Police ("Superintendent"). We write to briefly address the five-page, approximately 2,000 word letter Plaintiffs filed on July 7, 2023. Dkt. 52. Although the purported basis for Plaintiffs' filing is to respond to Defendants' letters informing the Court of the Second Circuit's recent decision in *Vitagliano v. County of Westchester*, No. 23-30, ---F.4th---, 2023 WL 4095164 (2d Cir. June 21, 2023), it is abundantly clear from the scope of the arguments raised that Plaintiffs have filed an improper sur-reply without leave of the Court. Plaintiffs' filing is also replete with inaccurate statements. For example, Plaintiffs misstate the standing requirement, erroneously assert "the state" issues a rifle license, make additional statutory interpretation arguments, and belatedly argue that Plaintiff Sears has standing because "his license application was pending when the suit was commenced," despite the fact that Plaintiffs did not plead this allegation and deliberately omitted that information in their March 10, 2023 pre-motion conference letter.

The Superintendent therefore requests that the Court disregard Plaintiffs' July 7, 2023 letter. *See* Individual Rule of Practice ¶ II(B); *Adams v. Annucci*, No. 17 Civ. 3794, 2023 WL 2664301, at *3 n.4 (S.D.N.Y. Mar. 28, 2023) (Karas, J.) ("Because Plaintiff failed to seek leave to file his Sur-Replies, the Court, in its discretion, will not consider them.").

The Superintendent thanks the Court for its consideration of this request.

Respectfully submitted,

/s/
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cc: Counsel for all Parties via ECF